

**Rules of the Vanderburgh Circuit Court**  
*Effective February 1, 1999 and including any amendments through March 8, 2005*

**Rule 1**

**Effective Date And Prior Rules**

These rules shall be in full force and effect on and after the first day of February, 1999, and supersede all rules or parts of rules previously followed by this Court.

**Rule 2**

**Filing**

All papers presented to the Court for filing in civil and criminal matters shall be flat and unfolded and shall be on size 8-1/2 by 11 inch paper. Paper shall be white, opaque, unglazed and of a weight normally used in printing and typing. Each page shall have a margin of at least 1 inch on the left side, 1/2 inch on the right side, and 1 inch at the top and bottom. Typewritten pages shall have no covers or backs and shall be fastened together at the top and at no other place.

**Rule 3**

**Extensions Of Time**

The time limits set out in these local rules, where allowable under the Indiana Rules of Trial Procedure, shall be extendable by order of Court.

In all civil cases, each party required to respond to a complaint, counterclaim, or cross-claim may obtain an automatic extension of time of thirty (30) days to plead or otherwise respond to such claim by filing a Notice of Extension with the Court and serving a copy of same upon all parties. Requests for additional extensions of time must be made by motion and hearing unless agreed to by the parties.

**Rule 4**

**Interrogatories -- Form And Limitation Of Number**

No party shall serve on any other party more than thirty (30) interrogatories, including subparagraphs, without leave of Court. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

**Rule 5**

**Motions And Petitions**

**A. Separate Briefs For Motions And Petitions**

(1) A Motion to Dismiss under Rule 12 of the Indiana Rules of Trial Procedure, for Summary Judgment, for judgment on a pleading, for more definite statement, or to strike shall be

accompanied by a separate Supporting Brief. The adverse party shall have thirty (30) days after service of the initial brief within which to serve and file an Answer Brief, and the moving party shall have fifteen (15) days after service of the Answer Brief within which to serve and file a Reply Brief. With respect to all other motions, the adverse party shall have fifteen (15) days after service thereof within which to serve and file a response thereto, and the moving party shall have seven (7) days after service of such response within which to serve and file a reply thereto. Each motion shall be separate; alternative or multiple motions filed together shall each be named in the caption on the face. Failure to file an Answer Brief or Reply Brief within the time prescribed shall subject a motion to summary ruling.

(2) The provisions of this rule requiring a separate Supporting Brief shall apply to every defense asserted pursuant to 12(b) of the Indiana Rules of Trial Procedure, whether asserted in the responsive pleading or by separate motion.

#### **B. Motions For Summary Judgment**

(1) Any Motion for Summary Judgment shall be filed no later than one hundred twenty (120) days before the trial date.

(2) In addition to a separate Supporting Brief, there shall be served and filed with each Motion for Summary Judgment a statement of material facts as to which the moving party contends there is no genuine issue, proposed Conclusions of Law, and a proposed Summary Judgment.

### **Rule 6 Trial Briefs**

Unless ordered otherwise, Trial Briefs may be furnished to the Court by the parties at least two (2) working days before trial, provided notice of intention to submit such Trial Brief is given to all opposing counsel at least ten (10) days prior to trial. Such brief need not be furnished to opposing counsel unless ordered by the Court or agreed to by the parties.

### **Rule 7 Default Judgments -- Attorney's Fees**

Application for default judgment requesting an allowance of attorney's fees shall be accompanied by an affidavit executed by the attorney requesting the fee. The affidavit shall be in a form and substance which will enable the Court to determine the amount of a reasonable fee in such case. In the absence of an affidavit, the amount of the attorney's fee will be nominal.

### **Rule 8 Attorney's Withdrawal**

All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days

written notice of his intention to withdraw by certified mail and has filed a copy of such with the Court; or upon a simultaneous entering of appearance by new counsel for said client. The letter of withdrawal shall explain to the client that failure to secure new counsel or to indicate to the Court that the client intends to represent himself may result in dismissal of the client's case, or a default judgment may be entered against him, whichever is appropriate, and shall also state other pertinent information such as the trial date or any other hearing date. Except for good cause shown, the Court will not grant a request for withdrawal of appearance unless the same has been filed with the Court at least ten (10) days prior to trial.

## **Rule 9**

### **Special Judges And Recusal Of Judge**

(Joint Rule With The Vanderburgh Superior Court)

In the event a Special Judge does not accept a case under Sections D, E, or F of Trial Rule 79, or a Judge of Circuit or Superior Court disqualifies or recuses under Section C of that rule, the case shall be referred to the Court Administrator of the Vanderburgh Superior Court for random reassignment to one of the non-recusing elected Judges of Vanderburgh County in both Circuit and Superior Courts.

## **Rule 10**

### **Conflict In Rules**

In the event of conflict between these rules and the Rules of the Supreme Court of Indiana or the laws of the State of Indiana, the applicable law or the Rule of the Supreme Court of Indiana shall govern.

The Vanderburgh Circuit and Superior Courts have adopted other joint local rules relating to random filing of criminal cases, bail, and court reporters. Copies of these rules may be obtained from the Court.

**Vanderburgh County Circuit Court Procedure for Criminal Cases**  
*Effective December 29, 2000 and Including Amendments Received Through March 8, 2005*

**COURT SESSIONS:** Regular court sessions are held every weekday at 9 a.m. and 1 p.m. Special court sessions for petitions to revoke, motions for modification from community corrections programs, and related matters are held on Tuesday and Thursday at 11 a.m. Court sessions are held in Room 208 on the second floor of the Courts Building. If Room 208 is being used for a trial or another matter, then court sessions are held in Room 202.

**PROBABLE CAUSE HEARINGS:** If a defendant is arrested without an arrest warrant having previously been issued, a probable cause hearing will be held. The hearing will be held at the court session immediately following the arrest and booking of the defendant in the Vanderburgh County Jail. At this hearing, the Court will review the affidavit of probable cause filed by the State to decide if there is probable cause for the offense(s) alleged by the State. If the Court finds that there is not probable cause, the defendant will be discharged. If the Court finds that there is probable cause, the Court will advise the defendant of the charges and some preliminary rights and set bond. The Court will also order the defendant to appear in three business days for an initial hearing at which time the defendant should appear with an attorney if he/she intends to hire counsel and the State should file any formal charges.

**INITIAL HEARINGS:** An initial hearing will be held on the third business day after the probable cause hearing unless the defendant was arrested as a result of an arrest warrant. If an arrest warrant was issued and then the defendant was arrested, an initial hearing will be held at the next regular court session immediately following the arrest and booking of the defendant in the Vanderburgh County Jail. At the initial hearing, the Court will advise the defendant of the charges, penalties, and constitutional rights; review bond; set an omnibus date and a holding date; and appoint counsel or set an appearance date for the defendant to appear with private counsel.

**TRANSFER OF CASES TO AND FROM VANDERBURGH SUPERIOR COURT:** If a defendant has a pending case in the Vanderburgh Superior Court prior to the filing of a case in Circuit Court, the Circuit Court case will be transferred to Superior Court. Similarly, if a defendant has a prior pending case in Circuit Court, any newer case in Superior Court will be transferred to Circuit Court.

**READINESS CONFERENCES:** Readiness Conferences are an opportunity for the prosecutor, the defense attorney, and the Court to discuss the case and any plea offers. Only the attorneys need to appear for these conferences. (This is not an appearance date for the defendant.) The date of the initial hearing controls when the readiness conferences are set. Readiness conferences for cases with initial hearings on the 1st through the 15th of the month will be set on the third consecutive Wednesday and Thursday of the next month. Readiness conferences for cases with initial hearings on the 16th through the 31st of the month will be set on the first consecutive Wednesday and Thursday of the second month after the initial hearing. Readiness conferences for non-drug (including domestic and child molesting) cases will be held on the first and third Wednesdays beginning at 1:30 p.m. for public defenders and 2:30 p.m. for private counsel.

Readiness conferences for drug cases will be held on the following Thursdays beginning at 1:30 p.m. for public defenders and 2:30 p.m. for private counsel. Attorneys will be advised of the readiness conference date at the time of the initial hearing. The conferences will be held in the jury room of Circuit Court unless it is unavailable, in which case the Court staff will advise of the location of the conferences. An attorney should contact Court staff and the Prosecutor's Office if he/she is unable to appear at his/her scheduled readiness conference.

**HOLDING DATES:** Holding dates are dates for the defendant and his/her attorney to appear so that the defendant can accept or reject any offer by the State of Indiana and/or set the matter for trial. The date of the initial hearing controls when the holding date is set. Holding dates will be set nine weeks after the initial hearing on the same weekday and at the same time as the initial hearing. If the scheduled holding date is a holiday, then the Court will set the holding date on the business day after the holiday if that day is in the same week. Otherwise, the holding date will be set on the business day prior to the holiday. If a party later requests a continuance or modification of the holding date, the Court will require that the parties agree to a modification of the omnibus date for the same number of days.

**OMNIBUS DATES:** The omnibus date is not an appearance date. However, it does control several legal deadlines for pleading certain matters and filing certain documents. The omnibus date is set 75 days from the initial hearing.

#### **EXAMPLE OF SCHEDULE FOR INITIAL HEARING, READINESS CONFERENCE, HOLDING DATE, AND OMNIBUS DATE**

Initial hearing	Wednesday, January 2, 2002, at 9:00 a.m.
Holding date	Wednesday, March 6, 2002 at 9:00 a.m./td>
Readiness Conference	Wednesday, February 20, 2002 at 1:30 p.m. (for non-drug cases with public defenders) Wednesday, February 20, 2002 at 2:30 p.m. (for non-drug cases with private counsel) Thursday, February 21, 2002 at 1:30 p.m. (for drug cases with public defenders) Thursday, February 21, 2002 at 2:30 p.m. (for drug cases with private counsel)
Omnibus Date	Monday, March 18, 2002

**MISCELLANEOUS HEARINGS:** If an attorney needs a hearing for a miscellaneous matter, including but not limited to, hearings for motions to suppress, motions to sever or join offenses or defendants, and motions for bond reduction, the attorney should contact court staff to schedule such a hearing or put the case on the court's calendar during 9 a.m. or 1 p.m. regular matters and request a hearing date.

**ADD-ONS:** If an attorney needs to add a criminal matter to the court's calendar, the attorney should advise opposing counsel and then contact court staff. If the defendant is in custody, the attorney should advise court staff.

**PRE-TRIAL CONFERENCES:** Pre-trial conferences will be scheduled approximately one week prior to any trial. Court staff will contact the attorneys for each case to schedule the conference. Pre-trial conferences are scheduled so the assigned prosecutor, the defense attorney, and the Court can discuss the issues of the case and so the prosecutor and the defense attorney can discuss any possible plea agreements. (This is not an appearance date for the defendant.)

**TRIAL DATES:** When a party requests a trial date, the Court will attempt to set the date within approximately 30 days if the defendant is in custody and 60 days if the defendant is not in custody. All trials, including court and jury trials, start at 8 a.m unless the Court advises otherwise. Questionnaires for prospective jurors will be available approximately two days prior to the trial. If additional time is needed to review the questionnaires, the bailiff can be contacted at 812-435-5196. Preliminary instructions will be provided on the first day of trial and final instructions will be provided during the trial. If additional time is needed to review the instructions, the staff attorney can be contacted at 812-435-5312. Peremptory challenges and challenges for cause are to be in writing on a form provided by court staff on the day of trial.

**PLEA AND SENTENCING HEARINGS:** If a defendant and the State have entered into a plea agreement, the Court will not take a guilty plea and order a pre-sentence investigation until the agreement has been reduced to writing and executed by the parties. When a defendant pleads guilty with or without a plea agreement with the State, the Court will immediately find a factual basis for each offense and advise the defendant of the penalties and constitutional rights. For these cases and for cases in which the defendant has been found guilty after a jury or court trial, a judgment and sentencing date will be set. The judgment and sentencing date will usually be scheduled approximately 20 days later if the defendant is in custody and approximately 40 days later if the defendant is not in custody. After a judgment and sentencing date has been set, the defendant should immediately report to the Probation Department in Room 210 so that an interview can be scheduled for the defendant's pre-sentence report. If the defendant is in custody, a member of the probation staff will visit the defendant in the jail for the interview. Subject to the Court's approval, and if both parties agree, pre-sentence investigation reports may be waived in certain Class D felonies.

**REQUESTS FOR MODIFICATION FROM COMMUNITY CORRECTIONS AND PROBATION:** Any request for modification of a community corrections or probationary sentence should be in writing and sent to the court. Hearings on such requests are set on Tuesdays and Thursdays at 11 a.m.

**REVOCATION HEARINGS:** If a petition to revoke the sentence of a person on a community corrections program or on probation is filed, either a bench warrant will be issued or the defendant will be advised of an appearance date by summons. These hearings are set on Tuesdays and Thursdays at 11 a.m.

**SHOCK PROBATION HEARINGS:** Any request for modification of a sentence being served at the Indiana Department of Corrections should be in writing and sent to the court. Once a modification request is received, court staff will request a progress report from the facility where the defendant is an inmate. Once the progress report has been received by the court, a shock

probation hearing will be scheduled. (If the sentence involved a plea agreement with the State, the State must agree to have a shock probation hearing before a hearing is set.) These hearings are usually held on the last Thursday of each month. If the Court is unavailable on such date, a different date will be selected. If a defendant is represented by an attorney, the attorney will be sent a notice of the hearing date. (Defendants are not transported back to Vanderburgh County for these hearings.)